



General Assembly

Distr.: General
2 November 2006
English
Original: French

Sixty-first session
Agenda item 77

Report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session

Report of the Sixth Committee

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I. Introduction

1. At its 2nd plenary meeting, on 13 September 2006, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-first session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session" and to allocate it to the Sixth Committee.
2. The Sixth Committee considered the item at its 1st, 2nd and 15th meetings, on 10, 11 and 30 October 2006. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/61/SR.1, 2 and 15).
3. For its consideration of the item, the Committee had before it the report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session.¹
4. At the 1st meeting, on 10 October, the Chairman of the United Nations Commission on International Trade Law at its thirty-ninth session introduced the report of the Commission on the work of that session.

¹ Official Records of the General Assembly, Sixty-first Session, Supplement No. 17 (A/61/17).



II. Consideration of proposals

A. Draft resolution A/C.6/61/L.7

5. At the 15th meeting, on 30 October, the representative of Austria, on behalf of Albania, Algeria, Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Belize, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, Estonia, Ethiopia, Finland, France, Germany, Greece, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Mongolia, the Netherlands, Norway, the Philippines, Poland, Portugal, Romania, the Russian Federation, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Uruguay, subsequently joined by Morocco, introduced and orally revised a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session" (A/C.6/61/L.7).

6. At its 15th meeting, on 30 October, the Committee adopted draft resolution A/C.6/61/L.7, as orally revised, without a vote (see para. 9, draft resolution I).

B. Draft resolution A/C.6/61/L.8

7. At the 15th meeting, on 30 October, the representative of Malaysia introduced a draft resolution entitled "Revised articles of the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law, and the recommendation regarding the interpretation of article II, paragraph 2, and article VII, paragraph 1, of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958" (A/C.6/61/L.8).

8. At its 15th meeting, on 30 October, the Committee adopted draft resolution A/C.6/61/L.8 without a vote (see para. 9, draft resolution II).

III. Recommendations of the Sixth Committee

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

Report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having considered the report of the Commission on the work of its thirty-ninth session,¹

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session;¹

2. *Commends* the Commission for the finalization and adoption of revised articles² of the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law³ on the form of the arbitration

¹ Official Records of the General Assembly, Sixty-first Session, Supplement No. 17 (A/61/17).

² Ibid., chap. IV, para. 181, and annex I.

³ Ibid., Fortieth Session, Supplement No. 17 (A/40/17), annex I.

agreement and interim measures, and of the recommendation regarding the interpretation of article II, paragraph 2, and article VII, paragraph 1,⁴ of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958;⁵

3. *Also commends* the Commission for the approval of the substance of the recommendations of the draft legislative guide on secured transactions, which has been designed to facilitate secured financing, thus promoting increased access to low-cost credit and enhancing national and international trade;

4. *Welcomes* the progress made by the Commission in its work on a revision of its Model Law on Procurement of Goods, Construction and Services,⁶ and on a draft instrument on transport law, and endorses the decision of the Commission to take up new topics in the areas of arbitration and insolvency law;

5. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law, as well as promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

6. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical assistance and cooperation in the field of international trade law reform and development, and in this connection:

(a) *Welcomes* the initiatives of the Commission towards expanding, through its secretariat, its technical assistance and cooperation programme;

(b) *Expresses* its appreciation to the Commission for carrying out technical assistance and cooperation activities in Belarus, Benin (for the United Nations Conference on Trade and Development/World Trade Organization International Trade Centre seminar), Colombia, Egypt, the Republic of Korea, Singapore, Slovakia and Switzerland (for the United Nations Conference on Trade and Development/World Trade Organization International Trade Centre symposium on multilateral trade treaties and developing countries) and for providing assistance with legislative drafting in the field of international trade law to China, Georgia, Greece, Malaysia, Peru, Rwanda (through the joint project with the International Law Institute), Serbia, Slovenia and the former Yugoslav Republic of Macedonia, and to the Commonwealth Telecommunications Organisation;

(c) *Expresses* its appreciation to the Governments whose contributions enabled the technical assistance and cooperation activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where

⁴ Ibid., *Sixty-first Session, Supplement No. 17* (A/61/17), chap. IV, para. 181, and annex II.

⁵ United Nations, *Treaty Series*, vol. 330, No. 4739.

⁶ *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in carrying out technical assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission, in the light of the relevance and importance of the work and programmes of the Commission to the implementation of the United Nations development agenda, including the achievement of the Millennium Development Goals;

7. *Takes note with regret* that, since the thirty-sixth session of the Commission, no contributions have been made to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General;⁷ stresses the need for contributions to the trust fund in order to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in the field of international trade law in those countries to facilitate the development of international trade and the promotion of foreign investment, and reiterates its appeal to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund;

8. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-first session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

9. *Recalls* that the responsibility for the work of the Commission lies with the meetings of the Commission and its intergovernmental working groups, and stresses in this regard that information should be provided regarding meetings of experts, which bring an essential contribution to the work of the Commission;

10. *Recalls* its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector,⁸ and in this regard encourages the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat, including the Global Compact Office;

11. *Reiterates its request* to the Secretary-General, in conformity with the General Assembly resolutions on documentation-related matters,⁹ which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the

⁷ Resolution 48/32, para. 5.

⁸ Resolutions 55/215, 56/76, 58/129 and 60/215.

⁹ Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

documents, to bear in mind the particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

12. *Requests* the Secretary-General to continue providing summary records of the meetings of the Commission relating to the formulation of normative texts;

13. *Recalls* its resolution approving the establishment of the *Yearbook of the United Nations Commission on International Trade Law*, with the aim of making the work of the Commission more widely known and readily available,¹⁰ expresses its concern regarding the timeliness of the publication of the *Yearbook*, and requests the Secretary-General to explore options to facilitate the timely publication of the *Yearbook*;

14. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

15. *Welcomes* the preparation of digests of case law relating to the texts of the Commission, such as a digest of case law relating to the United Nations Convention on Contracts for the International Sale of Goods¹¹ and a digest of case law relating to the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law,¹² with the aim of assisting in dissemination of information on those texts and promoting their use, enactment and uniform interpretation;

16. *Welcomes also* the decision of the Commission to hold, in the context of its fortieth session in 2007, a congress on international trade law in Vienna, with a view to reviewing the results of the past work of the Commission as well as related work of other organizations active in the field of international trade law, assessing current work programmes and considering topics and areas for future work, and acknowledges the importance of holding such a congress for the coordination and promotion of activities aimed at the modernization and harmonization of international trade law;

17. *Recalls* its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment,¹³ commends the restructured website of the Commission in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website in accordance with the applicable guidelines.

¹⁰ Resolution 2502 (XXIV), para. 7.

¹¹ United Nations, *Treaty Series*, vol. 1489, No. 25567.

¹² Resolutions 52/214, sect. C, para. 3; 55/222, sect. III, para. 12; 56/64 B, sect. X; 57/130 B, sect. X; 58/101 B, sect. V, paras. 61-76; 59/126 B, sect. V, paras. 76-95; and 60/109 B, sect. IV, paras. 66-80.

Draft resolution II

Revised articles of the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law, and the recommendation regarding the interpretation of article II, paragraph 2, and article VII, paragraph 1, of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958

The General Assembly,

Recognizing the value of arbitration as a method of settling disputes arising in the context of international commercial relations,

Recalling its resolution 40/72 of 11 December 1985 regarding the Model Law on International Commercial Arbitration,¹

Recognizing the need for provisions in the Model Law to conform to current practices in international trade and modern means of contracting with regard to the form of the arbitration agreement and the granting of interim measures,

Believing that revised articles of the Model Law on the form of the arbitration agreement and interim measures reflecting those current practices will significantly enhance the operation of the Model Law,

Noting that the preparation of the revised articles of the Model Law on the form of the arbitration agreement and interim measures was the subject of due deliberation and extensive consultations with Governments and interested circles and would contribute significantly to the establishment of a harmonized legal framework for a fair and efficient settlement of international commercial disputes,

Believing that, in connection with the modernization of articles of the Model Law, the promotion of a uniform interpretation and application of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958,² is particularly timely,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for formulating and adopting the revised articles of its Model Law on International Commercial Arbitration on the form of the arbitration agreement and interim measures, the text of which is contained in annex I to the report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session,³ and recommends that all States give favourable consideration to the enactment of the revised articles of the Model Law, or the revised Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law, when they enact or revise their laws, in view of the desirability of uniformity of the law of arbitral procedures and the specific needs of international commercial arbitration practice;

2. *Also expresses its appreciation* to the United Nations Commission on International Trade Law for formulating and adopting the recommendation

¹ *Official Records of the General Assembly, Fortieth Session, Supplement No. 17 (A/40/17), annex I.*

² *United Nations, Treaty Series*, vol. 330, No. 4739.

³ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 17 (A/61/17).*

regarding the interpretation of article II, paragraph 2, and article VII, paragraph 1, of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958,² the text of which is contained in annex II to the report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session;³

3. *Requests* the Secretary-General to make all efforts to ensure that the revised articles of the Model Law and the recommendation become generally known and available.